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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

In re the Marriage of KEITH AND ALLA MILLER.	
KEITH MILLER, Respondent, v. ALLA MILLER, Appellant.	E067923 (Super.Ct.No. RID1204312) OPINION

APPEAL from the Superior Court of Riverside County. Chad W. Firetag, Judge. Affirmed.

Alla Miller, in pro. per., for Appellant.

Bradley J. Hague for Respondent.

Keith Miller and Alla Miller married in March 2006.[1] The parties' son was born in 2008. They separated in September 2012, and Keith petitioned for dissolution of their

[1] Because the parties share a last name, we will refer to them by their first names to avoid confusion. No disrespect is intended.

marriage that same month. The trial court entered a status-only judgment of dissolution in July 2015 and a judgment on reserved issues in January 2017.

Alla appeals from the judgment on reserved issues. She argues that the court wrongly determined spousal support and failed to provide a statement of decision. She also argues that the court violated the California Rules of Court when it ordered Keith's counsel to prepare certain findings and orders, and it erred when it failed to hear her requests to recalculate child support. We reject her contentions and affirm.

BACKGROUND

Alla and Keith met online while she was living in Ukraine. Keith visited her in Ukraine several times, and they eventually married there. She moved to the United States after their marriage in 2006.

The judgment on reserved issues incorporates findings and orders made on three dates: April 22, 2016, June 10, 2016, and October 3, 2016. On April 22, the court divided the parties' property and debts. Alla does not challenge those rulings. On June 10, the court determined spousal support and child support. Keith had been paying spousal support for years, most recently at a rate of $1,480 per month. On the basis of the factors in Family Code[2] section 4320, the court ordered Keith to continue paying $1,480 per month, but only until April 2017. The court ordered Alla to pay child support of $78 per month. (Months earlier, the court had given Keith sole legal and sole physical custody of the parties' son after Keith had filed an ex parte application on the issue.)

The record does not contain a reporter's transcript for the October 3, 2016 proceedings, so it is unclear what precisely occurred on that day. But on June 10, the court indicated that it would resolve visitation on October 3, and it was expecting a child custody evaluator to submit a report before then. (See § 3111 [permitting the court to appoint a child custody evaluator in a contested proceeding involving custody or visitation rights, when the court determines it is in the best interests of the child].) The

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2 Further undesignated statutory references are to the Family Code unless otherwise indicated.

judgment on reserved issues awarded Keith sole legal and sole physical custody of the parties' son and gave Alla reasonable supervised visitation at Keith's discretion. We shall describe additional background as necessary in our discussion of the issues raised by Alla.

DISCUSSION

I. *Spousal Support*

Alla first challenges the award of spousal support. Keith signed United States Citizenship and Immigration Services form I-864, known as an affidavit of support, in connection with Alla's immigration to the United States. She contends that the court erred by failing to consider the affidavit of support when awarding spousal support. This argument lacks merit.

The affidavit of support is supposed "'to ensure that an immigrant does not become a public charge.'" (*In re Marriage of Kumar* (2017) 13 Cal.App.5th 1072, 1075.) An affiant such as Keith is typically called a sponsor. (*Ibid.*) By signing the affidavit of support, the "'sponsor agrees to provide support to maintain the sponsored alien at an annual income that is not less than 125 percent of the Federal poverty line during the period in which the affidavit is enforceable.'" (*Shumye v. Felleke* (N.D.Cal. 2008) 555 F.Supp.2d 1020, 1024, quoting 8 U.S.C. § 1183a(a)(1)(A).)

The sponsor's obligation of support terminates under five conditions, one of which is that the sponsored immigrant "has worked or can be credited with 40 qualifying quarters of work under title II of the Social Security Act." (*Erler v. Erler* (9th Cir. 2016)

824 F.3d 1173, 1176; *In re Marriage of Kumar*, *supra*, 13 Cal.App.5th at p. 1079.) The 40 quarters of work may be accrued by crediting the immigrant with all of the qualifying quarters worked by the immigrant's spouse during their marriage. (8 U.S.C. § 1183a(a)(3)(B).) Accordingly, the affidavit of support that Keith signed informed him that his obligation would terminate when the sponsored immigrant "[h]as worked, or can be credited with, 40 quarters of coverage under the Social Security Act."

We review the court's spousal support order for abuse of discretion. (*In re Marriage of Morrison* (1978) 20 Cal.3d 437, 454.) We presume that an order or judgment is correct, and the appellant bears the burden of establishing an abuse of discretion. (*Chalmers v. Hirschkop* (2013) 213 Cal.App.4th 289, 299.) The appellant must also establish that the claimed abuse of discretion was prejudicial. (*In re Marriage of McLaughlin* (2000) 82 Cal.App.4th 327, 337.)

Alla has failed to carry her burden in this case. She insists that the court failed to consider the affidavit of support, but it is clear that the court did consider it. At trial, the court explained that when the marriage is not one of "long duration," section 4320 generally limits spousal support to one-half the length of the marriage. (§ 4320, subd. (l).) The court then asked Alla: "So you had previously filed a motion[3] that said because of a federal affidavit of support, this was the I-864 affidavit of support. That was

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3 Presumably, the court was referring to a document filed about eight months earlier, which Alla styled a "supplemental declaration of [Alla] in support of motion for spousal support." (Capitalization omitted.) In the filing, she argued that because of the affidavit of support, Keith had to continue to support her until she became a citizen, was deported, or "earn[ed] 40 qualifying quarters of wages."

a federal document he filed, I think, when you immigrated here from the Ukraine, that he would continue support for you. And you have essentially, I think, argued to me that that document means that he should continue his spousal support obligations longer than one-half the length of the marriage. [¶] Is that why you think he should pay longer than one-half, because he filed or he signed this affidavit of support?" Alla replied that it was because of this and other factors that he should have to pay spousal support.

The court later questioned Keith on the affidavit of support. Keith confirmed that he had signed the affidavit and believed that the affidavit obligated him to support Alla for "[10] years of marriage," or "40 work credits, whichever." At the time of trial, he had been supporting her for over 10 years.

When the court gave its oral statement of decision, it addressed the affidavit of support. The court explained that, under section 4320, subdivision (n), it should consider any factors that it determines are "just and equitable" in awarding spousal support. The court reasoned: "I think this goes back to her immigration status or the fact that she came over here from the Ukraine, and what difficulty she must have in terms of trying to find work in a foreign land where she is still learning English. . . . [¶] I also see—and I asked [Keith] this, and he responded well that he did agree to provide for [Alla] as a spouse. He has done so for [10] years . . . ."

When considered in context with the court's questioning of the parties, the statement of decision reveals that the court considered the affidavit of support but concluded that Keith had satisfied his obligation under it. We therefore reject Alla's

argument that the court failed to consider the affidavit. Moreover, assuming for the sake of argument that the court had failed to consider the affidavit, Alla does not show that the claimed error was prejudicial. We do not presume injury from an error. (*In re Marriage of McLaughlin*, *supra*, 82 Cal.App.4th at p. 337.) She must establish that it was reasonably probable she would have secured a more favorable spousal support order if the court had considered the affidavit of support. (*Ibid.*) This requires her to demonstrate that Keith's obligation under the affidavit was more than $1,480 per month or would have continued past the April 2017 termination date ordered by the court. She has not demonstrated either of these things. In short, Alla has not established reversible error with respect to spousal support.

II. *Statement of Decision*

Alla argues that the court erred by failing to honor her request for a statement of decision. We conclude that this argument also lacks merit.

A court trying a question of fact must issue a statement of decision if a party appearing at trial timely and properly requests such a statement. (Code Civ. Proc., § 632.) The requesting party must specify the principal controverted issues that the party wants the statement to address. (*Ibid.*) If the trial concludes "within one calendar day or in less than eight hours over more than one day," the party must request the statement of decision before the matter is submitted for decision. (*Ibid.*) The court may issue its statement of decision orally if the trial concludes within one calendar day or in fewer than

eight hours over multiple days. (*Ibid.*) For longer trials, the court must issue a written statement of decision. (*Ibid.*)

We review de novo the trial court's interpretation and application of the law governing statements of decision. (See *In re Marriage of Left* (2012) 208 Cal.App.4th 1137, 1145 [de novo review is applied to questions regarding the proper interpretation of statutes or the proper application of law to uncontested facts].) Any "error in failing to issue a requested statement of decision is not reversible per se, but is subject to harmless error review." (*F.P. v. Monier* (2017) 3 Cal.5th 1099, 1108.) Accordingly, appellants must show that the error prejudiced them. (*In re Marriage of McLaughlin, supra*, 82 Cal.App.4th at p. 337.)

We can see from the register of actions that Alla filed a request for a statement of decision on May 2, 2016. The request, however, does not appear in the record on appeal. Her request came after the April 22 trial on property issues, but before the June 10 trial on spousal and child support. On June 10, the court ruled that to the extent that Alla wanted a written statement of decision, it was denying the request. The court explained that it had already issued an oral statement of decision on April 22, and it intended to give an oral statement of decision again on June 10. And in any event, her request was untimely with respect to the property issues tried on April 22.

For several reasons, we reject Alla's argument that the court erred by failing to provide a statement of decision. First and foremost, the court did in fact issue oral statements of decision on April 22 and June 10, 2016. Alla has not explained why the

oral statements constituted error. The court may sever issues and try them separately. (Code Civ. Proc., § 1048; *Earp v. Earp* (1991) 231 Cal.App.3d 1008, 1012.) Each of the trials concluded within one day, so the court was permitted to issue an oral statement of decision for each. (Code Civ. Proc., § 632.)

Second, the court was correct that her request was untimely with respect to the property issues tried on April 22, 2016. She had to request a statement of decision for the one-day trial before the court took the property issues under submission. (Code Civ. Proc., § 632.) She did not and instead filed her request 10 days later. (*Earp v. Earp*, *supra,* 231 Cal.App.3d at p. 1012 [when the court tried one issue in less than a day and reserved remaining issues for a later date, the request for a statement of decision had to be made before the separately tried issue was submitted].)

Third, because the record does not include Alla's request for a statement of decision, we cannot determine whether she complied with the statutory mandate that she specify the controverted issues as to which she wanted the statement. (Code Civ. Proc., § 632.)

Fourth and finally, even assuming that the court should have issued written statements of decision, Alla has not demonstrated that she was prejudiced by the failure to give them in writing. For all of these reasons, her argument fails.

III. *Preparation of Findings and Orders*

Next, Alla contends that the court erred by ordering Keith's counsel to prepare a document incorporating findings and orders from five different hearings. This argument is also meritless.

Alla relies on rule 5.125 of the California Rules of Court.[4] Under this rule, the court may order a party to prepare a proposed order after a hearing. The proposed order should accurately reflect the court's orders at the hearing. (Rule 5.125(c)(1), (f).) Rule 5.125 sets forth timelines and procedures for preparing, serving, and objecting to proposed orders. (Rule 5.125(b)-(e).) The rule nevertheless permits courts to modify the timelines and procedures "when appropriate to the case."

On April 22, 2016, the court ordered Keith's counsel to prepare a proposed order incorporating findings and orders from five hearings over the last four months. Alla contends that the court erred by permitting these "late filings." It is unclear why she believes the proposed orders were late under Rule 5.125. She references subdivision (d)(2), but that merely sets forth a five-day timeline for one party to respond to a proposed order prepared by the opposing party. (Rule 5.125(d)(2).) Nothing in Rule 5.125 prohibits the court from combining proposed orders for several hearings across several months. And even if the court's actions breached one of the timelines in the rule, the court would have discretion to modify that timeline. This claim of error thus fails.

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4 All further rule references are to the California Rules of Court unless otherwise indicated.

IV. *Child Support*

Alla's last contention relates to child support. She asserts that she asked the court to "re-calculate the erroneous child support" numerous times between June 2014 and July 2016, and each time, the court did not hear her on this matter. She argues that the failure to hold an "adequate hearing" was error. (Boldface omitted.) She has forfeited this argument.

Alla's opening brief does not describe, with citations to the record, all of the times that she requested a hearing on child support but was denied one. Moreover, even if she had properly described the proceedings and cited the record, and assuming for the sake of argument that the court wrongly denied her a hearing, she still does not explain why this was prejudicial. That is, she does not show that the court erroneously calculated child support and probably would have changed it in her favor if the hearings had occurred. She does not even explain who was paying child support to whom and how much was being paid during the relevant time period. (The judgment on reserved issues gave Keith sole custody of their son, but earlier in the case Alla had custody of the child, and Keith had visitation.) Simply put, she does not identify the particular child support order that she wanted to challenge. And her sole legal citation only explains the abuse of discretion standard of review.

"We are not bound to develop appellants' arguments for them." (*In re Marriage of Falcone & Fyke* (2008) 164 Cal.App.4th 814, 830.) Alla was required to cite the record for factual assertions and support each point with reasoned legal argument. (Rule

8.204(a)(1)(B)-(C).) We may treat an argument as forfeited when a party fails to support the argument with the necessary citations to the record, cogent legal argument, or citation to authority. (*In re Marriage of Falcone & Fyke*, *supra*, at p. 830; *Duarte v. Chino Community Hospital* (1999) 72 Cal.App.4th 849, 856.) We do so here.

DISPOSITION

The judgment on reserved issues is affirmed. Keith shall recover his costs of appeal. (Cal. Rules of Court, rule 8.278(a)(1).)

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MENETREZ
J.

We concur:

SLOUGH
Acting P. J.

FIELDS
J.